

# V A R I A   D I D A C T I C A

## BOOK REVIEW

R.A. Bauman: *Political trials in Ancient Greece*. Routledge, Oxford.  
1990. xiii & 222pp. [\$59.95]

Bauman claims that his work is original in its comprehensiveness, combining a study of trials under Athenian law and those under Macedonian law and looking at Athenian trials in their historical, and not just legal, context. Bauman is best known for his books on *maiestas* (treason) and *impietas* in Roman legal history, and it is thus not surprising that in this foray into Greek history he seems predisposed to finding *impietas* and *maiestas* wherever they may lurk. He would assume that, as the laws on *maiestas* and *impietas* were exploited to protect the Roman emperors, so in Greek law *asebeia* (impiety, sacrilege) was invoked to protect the political order.

In dealing with the trial in Athens of Phrynichus, the tragedian who produced the controversial *Sack of Miletus*, Bauman argues that as early dramas were performed in the Agora so the case against Phrynichus may have been initiated by the *agoranomoi* (the market officials). He would see them as having similar functions to those of the Roman plebeian aediles, and he notes that plebeian aediles were responsible for the first *maiestas minuta* case in Rome (p.14), when in 246 BC they prosecuted Claudia for a statement that did not conform with political rectitude.

Then the first sub-heading in his chapter on trials in the reign of Alexander the Great is "The foothills of Hellenistic *asebeia*", and in his final chapter, which covers the period between Alexander's death (323) and the foundation of the Hellenistic kingdoms (in the period 306-304), he says with regard to Athens, "*Asebeia* headquarters was living up to its reputation by providing under-pinning for the new charge of impiety" (p.168).

Thus Bauman does his best to make the history of Greek trials seem less alien to those familiar with Roman legal history.

The book's title implies a somewhat restricted definition of what is relevant, but Bauman naturally extends the scope of his work to include references to ostracism (involving expulsion after a popular vote but without anything like a judicial hearing) (22 sq.), *dokimasia* (the screening of citizens elected to office) and *euthynai* (the auditing procedure which followed upon a man's tenure of office) (esp. 82-84). In dealing with criminal processes Bauman mentions impeachment (*eisangelia*), promoting a prosecution by deposition (*menysis*) and the regular form of prosecution (*graphe*) (p.6), but he does not elaborate on procedures such as *endeixis* and *apagoge*. Thus in dealing with the period after the restoration of democracy in 403 BC, in a section unpromisingly titled "Towards the Fourth Century", Bauman glosses over Archinus' action in bringing to trial before the Boule, by *apagoge*, a returned exile who was accused of trying to violate the amnesty. Archinus persuaded the council to condemn the returning exile to death without a trial. Aristotle adds a comment which may mean either that the execution deterred others from ever again trying to violate the amnesty, or that it was enough to get this possibility of execution without a trial removed from the statutes.<sup>1</sup>

Greek history is not Bauman's primary area of history and this may explain some of the assumptions which he makes and also some of the omissions. Thus, for example, Bauman accepts that the trial of Phrynichus arising from his *Sack of Miletus* took place in 493 (Badian

---

<sup>1</sup> [Arist.] *Ath Pol* 40.2; E.M. Carawan, *GRBS* 25, 1984 esp. 116-117.

has argued that it may well have occurred 20 years later). His treatment of legislation relating to comedy, and in particular of Syracosius' law (p.54) is meagre, and more could be said about the reconciliation agreement of 403/2. He does not do justice to the complex run of trials in Athens in the period 330 to 323. Bauman ignores (or rejects without comment) the evidence that ostracism by the Boule was introduced some years before the first ostracism by the Assembly (488/7 BC).

In dealing with Macedonian history, Bauman tends to follow the believers in Macedonian Staatsrecht, against those who think that Philip and Alexander made the rules up as they went along. A good example of the frailty of formalism in this context is Bauman's reconstruction of the trial of Philotas and the judicial murder of his father Parmenion. In 330 BC Philotas was arrested for failing to pass on to Alexander information about a plot to assassinate him. There does seem to have been some sort of plot, but the only charge against Philotas that was proven was misprision of treason. Despite the lack of evidence, Alexander did accuse Philotas of being party to the conspiracy, which, in Alexander's view, had been masterminded by Parmenion. Bauman inclines to believe that Philotas and Parmenion were guilty as charged, which makes his account, if not original, at least unfashionable. Bauman also believes that the rule of law applied and Philotas was given a fair trial. The arrests caused panic among those who knew that in Macedonian law all relatives of a man guilty of treason against the king would be executed. Bauman accepts that Alexander suspended the law, and then reinstated it so that it was "back on the statute-book by the time Alexander got around to dealing with Parmenio" (p.136). This follows the path of Curtius' episodic treatment and produces the time delays for Alexander to change the statute-book twice and to get around to dealing with Parmenion, but the reality was that Alexander had to catch Parmenion before he received information on the arrest of his son.

Bauman sanitizes the story and makes it intelligible and acceptable to a Roman legal historian, but the truth was probably messier.

One of the delights of Bauman's prose is his exuberant mixture of metaphors (e.g. pp.61, 104, 123, 151 and 165). The logic and meaning of his formulations are not always clear (examples on pp.16, 89, 95 and 112). There are a few typographical errors (e.g. 23, 25, 146 and 211).

Bauman set himself a difficult task. The result is a useful introduction to the subject of Greek political trials. Part of its value is that he approaches the subject with the mind of a lawyer, and he sees the Greek trials in the broader context of the history of law in classical antiquity. Those familiar with his work on the application of the Roman law on *maiestas* will expect Bauman to be controversial: they will not be disappointed.

J.E. Atkinson: University of Cape Town